APRIL 19, 1993

Fred Hansen, Director
Oregon Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204-5696

Dear Fred:

During our November 24th conference call on State alternatives to HWIR, we discussed the list of "universal wastes" contained in your issues paper. We agreed that OSW would send you a discussion paper which describes the status of our work on each of these wastes. You and your colleagues would look at this paper and provide us a priority ranking of them. You would also provide us with a list of any other wastes you think should be included on the universal waste list.

As I mentioned on the conference call, I believe we will need to define a priority ranking for and an approach to dealing with this list of universal wastes. The problem I see is that the list could keep on growing and EPA would be faced with a never ending task of dealing with special wastes on a case-by-case basis. We all need to set priorities for dealing with these problem wastes simply because of our resource constraints.

Below is a description of the current status of our activities for each of the universal wastes listed in your alternatives to HWIR paper.

Mercury and NiCad Batteries

On February 11, 1993, EPA published a proposal that addresses the collection of certain hazardous wastes (58 FR 8102), such as batteries, that are generated in relatively small quantities by numerous, varied, generators in order to facilitate the removal of these wastes from the municipal waste stream. The proposal encourages proper management of these wastes and tries to minimize the regulatory requirements imposed on generators, transporters, and intermediate consolidation facilities while retaining basic good management requirements to ensure protection of the environment. Specific regulatory language is included for batteries and certain recalled pesticides, and a mechanism is provided to add additional wastes in the future. Other wastes such as paint application wastes, spent antifreeze, and mercury thermostats are discussed as possible future additions. A copy of the proposal is enclosed. If you have questions about the proposal or would like additional copies, please have your staff call Charlotte Mooney, of my staff, at 202-260-6926.

Fluorescent Light Bulbs

We have two efforts underway that address fluorescent light bulbs. First, we are planning to publish a notice of data availability discussing the appropriateness of handling light bulbs that exhibit the toxicity characteristic under the special collection system approach mentioned above.

Second, we are currently developing a proposal to exempt discarded fluorescent bulbs. The rationale is that mercury generally does not appear as mobile as the TC would indicate. Therefore, we are proposing that these light bulbs do not warrant regulation under Subtitle C. Also, the Greenlights initiative encourages companies to switch from standard fluorescent bulbs to more efficient "green lights." Studies have shown that the power savings and corresponding reduced coal burning eliminates more total loading of mercury than is caused by the disposal of standard fluorescent bulbs. (Also, see battery discussion.)

We still, however, intend to pursue the special collection approach both as an interim and in case information becomes available that an exemption would not be justified.

Antifreeze

Currently, spent antifreeze is not regulated under RCRA Subtitle C unless it exhibits a hazardous waste characteristic. However, our information indicates that in some cases used antifreeze may exhibit the toxicity characteristic for lead and/or benzene, so EPA is also considering this a candidate for the special collection rule.

Spent Solvents

Currently, many spent solvents and spent solvent mixtures are listed as hazardous wastes. The Agency is under a consent order to study other spent solvents to determine whether these spent solvents should also be listed. At the present time, EPA, believes that the spent solvents included in the F001 - F005 listings are best managed as RCRA hazardous wastes and should not be included on the list of "universal" wastes. There appears to be a viable solvent reclamation industry operating within the RCRA subtitle C regulations.

Contaminated Rags and Wipers

Kimberly-Clark and Scott Paper have petitioned the Agency to adopt best management practices (BMP) when regulating disposable wipes contaminated with spent solvents. Kimberly-Clark's proposal is discussed in the preamble to the proposed Hazardous Wastes Identification Rule (57 FR 21450). In addition, the Institute of Industrial Launderers has raised the issue of management practices for reusable textile cloths that are laundered. The Agency believes that there may be merit in a BMP approach for regulating these items. Our definition of Solid Waste Task Force is pursuing options with a coalition of affected industry representatives for safe management.

Used Oil

In May 1992, EPA determined that listing used oil destined for disposal as a hazardous waste was unnecessary. Therefore, the Agency issued management standards for recycling used oil that provide strong safeguards against any potential types of mishandling. The management standards cover all segments of the used oil recycling system and are codified at 40 CFR 279. The most stringent standards apply to used oil processors and re-refiners because they handle the largest quantities of used oil. They prohibit storage in unlined surface impoundments and road oiling (except in states authorized to manage their own hazardous waste programs).

Treated Poles/Lumber

Decommissioned telephone poles are not currently regulated in RCRA Subtitle C. However, a maximum contaminant level (MCL) for pentachlorophenol (PCP), the chemical commonly used to treat telephone poles and other lumber, was recently established at a much more stringent value than is currently used in the toxicity characteristic (TC). The TC level for PCP was developed based upon the reference dose (RfD). If the toxicity characteristic level was modified to incorporate the newer, more stringent health-based value, it is likely that discarded telephone poles would be regulated as characteristically hazardous waste unless other information showed that pentachlorophenol did not migrate significantly in the environment. Currently, EPA and Industry groups interested in the potential risk of PCP are jointly conducting studies of the fate and transport of PCP. Once these studies are complete, EPA will make a determination as to whether the toxicity characteristic level for PCP should be made more stringent.

Sandblast Grit

Although EPA has not received much information or been petitioned to address discarded sandblast grit, we do know that the grit can exhibit the toxicity characteristic for lead in operations where lead-based paint is being removed from bridges. EPA is currently reevaluating the fate and transport modeling for lead to determine whether the current toxicity characteristic level is appropriate. If the lead level is determined to be too stringent and is modified, this could resolve the issue of some sandblast grits being regulated in Subtitle C.

Construction Debris

In the Phase I Land Disposal Restriction Rulemaking, construction debris contaminated with listed hazardous wastes was addressed. This rulemaking set various "decontamination" methods that render the contaminated debris non-hazardous. Once the appropriate technology is completed, the debris is no longer regulated in RCRA Subtitle C. Also, we are currently reevaluating the status of abatement wastes under the household hazardous waste exemption.

Next Steps

I would like your views and the views of your colleagues on which of these "universal" wastes should be addressed first. We need to set priorities and schedules for these wastes.

I hope this letter will be useful to states in helping you to understand the Agency's relevant ongoing activities when making choices between which waste or waste types to address first. Please give me a call (202-260-4627) if you have any questions and I look forward to seeing you at the next dialogue meeting.

Sincerely,

Sylvia K. Lowrance
Director
Office of Solid Waste

Enclosure